

PATENT
Attorney Docket No. 202143

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Michael A. Arkes

Application No. 09/414,951

Filed: October 8, 1999

For: AN INCENTIVE POINTS REDEMPTION
PROGRAM CARRIED OUT VIA AN ON-
LINE AUCTION

Art Unit: 2164

Examiner: Kyle, Charles R.

FAX RECEIVED

JUN 19 2003

PETITIONS OFFICE

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137 (b)**

Attention: Office of Petitions
Commissioner for Patents
Box DAC
Washington, D.C. 20231

Dear Sir:

The above-identified application became abandoned for failure to file a reply to a Final Office Action by the United States Patent Office, dated September 23, 2002, namely, a Notice of Appeal. The Notice of Appeal was due on March 23, 2003. The date of abandonment is the day after the expiration date of the period set for reply in the Office action notice or action plus any extensions of time actually obtained.

Applicant hereby petitions for revival of this application. This petitions includes the following items:

1. Petition fee;
2. Reply and/or issue fee;
3. Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design application; and
4. Statement that the entire delay was unintentional.

1. Petition fee:
Applicant claims small entity status. The small entity fee of \$650.00 is enclosed.

2. Reply:
The reply to the above-noted Final Office Action in the form of a Notice of Appeal is enclosed herewith. The requisite Notice of Appeal filing fee of \$160.00

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is enclosed. The three month extension fee was previously submitted with the Supplemental Response that was faxed to the Patent Office on March 11, 2003.

3. Terminal disclaimer:

A Terminal disclaimer with disclaimer fee is not required since this application was filed after June 8, 1995.

4. **STATEMENT:**

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional for the following reasons.

As background for the choice of facsimile phone number, Applicant received a Final Office Action, dated September 23, 2002. In the Office Action, instructions were given on page 14 where Applicant should respond via facsimile. On March 11, 2003, Applicant submitted a Supplemental Response/Declaration and Request for Reconsideration After Final. It was faxed to Examiner Kyle at the specified fax number (703) 746-7238. On March 17, 2003, the Examiner called Applicant's undersigned attorney to advise that he had not yet received a response and inquired if a response was going to be filed. The undersigned advised the Examiner that a response had been faxed on March 11, 2003. The Examiner asked that the Response be re-faxed to a different fax number, i.e., (703) 872-9327.

On March 18, 2003, a Notice of Appeal was faxed to the Patent Office to the changed number (703) 872-9327 that was given by Examiner Kyle (which was five days prior to the final due date). The fax machine made repeated attempts at dialing the number. The fax did not go through. The communication result report printed from the fax machine indicated that there was no answer. Unfortunately, it was not detected by the sender at the time.


Applicant first became aware of the transmission failure on April 2, 2003 when Applicant's representative received a courtesy call from Examiner Charles Kyle to inform him that the application had been abandoned. Applicant has, without delay, submitted this petition.

For these reasons, Applicant respectfully requests that this Petition be granted.

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The Office is hereby authorized to charge the total fees due \$735.00 (\$685 - Petition Fee and \$160 - Notice of Appeal), including any additional fees, that may be required, to Deposit Account No. 12-1216.

Date: April 7, 2003


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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this **PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137 (b)** (along with any documents referred to as attached or enclosed) is being transmitted by facsimile to the United States Patent and Trademark Office, Office of Petitions, Facsimile Number (703) 308-6916, on the date indicated.

Date: April 7, 2003


Printed Name: Brian D. Sandstrom